

House Study Bill 198

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the appointment of a judicial officer, a clerk
2 of the district court, or a chief juvenile court officer.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1240DP 81
5 jm/pj/5

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1 1 Section 1. Section 46.12, Code 2005, is amended to read as
1 2 follows:
1 3 46.12 NOTIFICATION OF VACANCY AND RESIGNATION.
1 4 1. When a vacancy occurs or will occur within one hundred
1 5 twenty days in the supreme court, ~~or the court of appeals, or~~
1 6 ~~district court,~~ the state commissioner of elections shall
1 7 forthwith so notify the chairperson of the proper judicial
1 8 nominating commission, ~~unless the chief justice has ordered~~
1 9 ~~the state commissioner of elections to delay sending the~~
1 10 ~~notification. The chief justice may order the delay for up to~~
1 11 ~~one hundred eighty days for budgetary reasons. The~~
1 12 chairperson shall call a meeting of the commission within ten
1 13 days after such notice; if the chairperson fails to do so, the
1 14 chief justice shall call such meeting.
1 15 2. When a vacancy occurs or will occur within one hundred
1 16 twenty days in district court, the state commissioner of
1 17 elections shall forthwith so notify the chairperson of the
1 18 proper judicial nominating commission, unless the chief
1 19 justice has ordered the state commissioner of elections to
1 20 delay sending the notification. The chief justice may order
1 21 the delay for budgetary reasons. The chairperson shall call a
1 22 meeting of the commission within ten days after such notice;
1 23 if the chairperson fails to do so, the chief justice shall
1 24 call such meeting.
1 25 3. When a judge of the supreme court, court of appeals, or
1 26 district court resigns, the judge shall submit a copy of the
1 27 resignation to the state commissioner of elections at the time
1 28 the judge submits the resignation to the governor; and when a
1 29 judge of the supreme court, court of appeals, or district
1 30 court dies, the clerk of district court of the county of the
1 31 judge's residence shall in writing forthwith notify the state
1 32 commissioner of elections of such fact.
1 33 Sec. 2. Section 602.1215, subsection 1, Code 2005, is
1 34 amended to read as follows:
1 35 1. Subject to the provisions of section 602.1209,
2 1 subsection 3, the ~~district judges~~ chief judge of each judicial
2 2 ~~election~~ district, ~~after consultation with the judges of the~~
2 3 ~~appropriate judicial election district, shall by majority vote~~
2 4 appoint persons to serve as clerks of the district court
2 5 within the judicial ~~election~~ district. The ~~district judges~~
2 6 chief judge of a judicial ~~election~~ district may appoint a
2 7 person to serve as clerk of the district court for more than
2 8 one but not more than four contiguous counties in the same
2 9 judicial district. A person does not qualify for appointment
2 10 to the office of clerk of the district court unless the person
2 11 is at the time of application a resident of the state. A
2 12 clerk of the district court may be removed from office for
2 13 cause by ~~a majority vote of the district judges~~ chief judge of
2 14 the judicial ~~election~~ district. Before removal, the clerk of
2 15 the district court shall be notified of the cause for removal.
2 16 Sec. 3. Section 602.1217, subsection 1, Code 2005, is
2 17 amended to read as follows:
2 18 1. The ~~district judges~~ within a chief judge of each
2 19 judicial district, by majority vote, after consultation with

2 20 ~~the judges of the judicial district, shall appoint a chief~~
2 21 ~~juvenile court officer and may remove the officer for cause.~~
2 22 Sec. 4. Section 602.4102, subsection 5, Code 2005, is
2 23 amended to read as follows:

2 24 5. The court of appeals shall extend the time for filing
2 25 of an application if the court of appeals determines that a
2 26 failure to timely file an application was due to the failure
2 27 of the clerk of the court of appeals to notify the prospective
2 28 applicant of the filing of the decision. ~~If an application~~
~~2 29 for further review is not acted upon by the supreme court~~
~~2 30 within thirty days after the application was filed, the~~
~~2 31 application is deemed denied, the supreme court loses~~
~~2 32 jurisdiction, and the decision of the court of appeals is~~
~~2 33 conclusive.~~

2 34 Sec. 5. Section 602.6301, Code 2005, is amended to read as
2 35 follows:

3 1 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
3 2 JUDGES.

3 3 There shall be one district associate judge in counties
3 4 having a population of more than thirty-five thousand and less
3 5 than eighty thousand; two in counties having a population of
3 6 eighty thousand or more and less than one hundred twenty-five
3 7 thousand; three in counties having a population of one hundred
3 8 twenty-five thousand or more and less than ~~two one~~ hundred
3 9 ~~seventy-five~~ thousand; four in counties having a population of
3 10 ~~two one~~ hundred ~~thirty-five~~ fifteen thousand or more and less than
3 11 two hundred ~~thirty-five~~ fifteen thousand; five in counties
3 12 having a population of two hundred ~~thirty-five~~ fifteen
3 13 thousand or more and less than two hundred ~~seventy sixty~~
3 14 thousand; six in counties having a population of two hundred
3 15 ~~seventy sixty~~ thousand or more and less than three hundred
3 16 five thousand; and seven in counties having a population of
3 17 three hundred five thousand or more and less than three
3 18 hundred fifty thousand; eight in counties having a population
3 19 of three hundred fifty thousand or more and less than three
3 20 hundred ninety-five thousand; nine in counties having a
3 21 population of three hundred ninety-five thousand or more and
3 22 less than four hundred forty thousand; ten in counties having
3 23 a population of four hundred forty thousand or more and less
3 24 than four hundred eighty-five thousand; and one additional
3 25 judge for every population increment of thirty-five thousand
3 26 which is over four hundred eighty-five thousand in such
3 27 counties. However, a county shall not lose a district
3 28 associate judgeship solely because of a reduction in the
3 29 county's population. If the formula provided in this section
3 30 results in the allocation of an additional district associate
3 31 judgeship to a county, implementation of the allocation shall
3 32 be subject to prior approval of the supreme court and
3 33 availability of funds to the judicial branch. A district
3 34 associate judge appointed pursuant to section 602.6302 shall
3 35 not be counted for purposes of this section.

4 1 Sec. 6. Section 602.6304, subsections 2 and 3, Code 2005,
4 2 are amended to read as follows:

4 3 2. In November of any year in which an impending vacancy
4 4 is created because a district associate judge is not retained
4 5 in office pursuant to a judicial election, the county
4 6 magistrate appointing commission shall publicize notice of the
4 7 vacancy in at least two publications in the official county
4 8 newspaper. The commission shall accept applications for
4 9 consideration for nomination as district associate judge for a
4 10 minimum of fifteen days prior to certifying nominations. The
4 11 commission shall consider the applications and shall, by
4 12 majority vote, certify to the chief judge of the judicial
4 13 district not later than December 15 of that year the names of
4 14 three applicants who are nominated by the commission for the
4 15 vacancy, unless the chief justice has ordered the commission
4 16 to delay the certification of the nominees to the chief judge.
4 17 The chief justice may order the delay of the certification ~~for~~
~~4 18 up to one hundred eighty days~~ for budgetary reasons. If there
4 19 are three or fewer applicants the commission shall certify all
4 20 applicants who meet the statutory qualifications. Nominees
4 21 shall be chosen solely on the basis of the qualifications of
4 22 the applicants, and political affiliation shall not be
4 23 considered.

4 24 3. Within thirty days after a county magistrate appointing
4 25 commission receives notification of an actual or impending
4 26 vacancy in the office of district associate judge, other than
4 27 a vacancy referred to in subsection 2, the commission shall
4 28 certify to the chief judge of the judicial district the names
4 29 of three applicants who are nominated by the commission for
4 30 the vacancy, unless the chief justice has ordered the

4 31 commission to delay the certification of the nominees to the
4 32 chief judge. The chief justice may order the delay of the
4 33 certification ~~for up to one hundred eighty days~~ for budgetary
4 34 reasons. The commission shall publicize notice of the vacancy
4 35 in at least two publications in the official county newspaper.
5 1 The commission shall accept applications for consideration for
5 2 nomination as district associate judge for a minimum of
5 3 fifteen days prior to certifying nominations. The commission
5 4 shall consider the applications and shall, by majority vote,
5 5 certify to the chief judge of the judicial district the names
5 6 of three applicants who are nominated by the commission for
5 7 the vacancy. If there are three or fewer applicants the
5 8 commission shall certify all applicants who meet the statutory
5 9 qualifications. Nominees shall be chosen solely on the basis
5 10 of the qualifications of the applicants, and political
5 11 affiliation shall not be considered. As used in this
5 12 subsection, a vacancy is created by the death, retirement,
5 13 resignation, or removal of a district associate judge, or by
5 14 an increase in the number of positions authorized.

5 15 Sec. 7. Section 602.6403, subsection 3, Code 2005, is
5 16 amended to read as follows:

5 17 3. Within thirty days following receipt of notification of
5 18 a vacancy in the office of magistrate, the commission shall
5 19 appoint a person to the office to serve the remainder of the
5 20 unexpired term, unless the chief justice has ordered the
5 21 commission to delay the appointment ~~for up to one hundred~~
5 22 ~~eighty days~~ for budgetary reasons. For purposes of this
5 23 section, vacancy means a death, resignation, retirement, or
5 24 removal of a magistrate, or an increase in the number of
5 25 positions authorized.

5 26 Sec. 8. Section 602.7103B, subsections 2 and 3, Code 2005,
5 27 are amended to read as follows:

5 28 2. In November of any year in which an impending vacancy
5 29 is created because a full-time associate juvenile judge is not
5 30 retained in office pursuant to a judicial election, the county
5 31 magistrate appointing commission shall publicize notice of the
5 32 vacancy in at least two publications in the official county
5 33 newspaper. The commission shall accept applications for
5 34 consideration for nomination as full-time associate juvenile
5 35 judge for a minimum of fifteen days prior to certifying
6 1 nominations. The commission shall consider the applications
6 2 and shall, by majority vote, certify to the chief judge of the
6 3 judicial district not later than December 15 of that year the
6 4 names of three applicants who are nominated by the commission
6 5 for the vacancy, unless the chief justice has ordered the
6 6 commission to delay the certification of the nominees to the
6 7 chief judge. The chief justice may order the delay of the
6 8 certification ~~for up to one hundred eighty days~~ for budgetary
6 9 reasons. If there are three or fewer applicants, the
6 10 commission shall certify all applicants who meet the statutory
6 11 qualifications. Nominees shall be chosen solely on the basis
6 12 of the qualifications of the applicants, and political
6 13 affiliation shall not be considered.

6 14 3. Within thirty days after a county magistrate appointing
6 15 commission receives notification of an actual or impending
6 16 vacancy in the office of full-time associate juvenile judge,
6 17 other than a vacancy referred to in subsection 2, the
6 18 commission shall certify to the chief judge of the judicial
6 19 district the names of three applicants who are nominated by
6 20 the commission for the vacancy, unless the chief justice has
6 21 ordered the commission to delay the certification of the
6 22 nominees to the chief judge. The chief justice may order the
6 23 delay of the certification ~~for up to one hundred eighty days~~
6 24 for budgetary reasons. The commission shall publicize notice
6 25 of the vacancy in at least two publications in the official
6 26 county newspaper. The commission shall accept applications
6 27 for consideration for nomination as full-time associate
6 28 juvenile judge for a minimum of fifteen days prior to
6 29 certifying nominations. The commission shall consider the
6 30 applications and shall, by majority vote, certify to the chief
6 31 judge of the judicial district the names of three applicants
6 32 who are nominated by the commission for the vacancy. If there
6 33 are three or fewer applicants, the commission shall certify
6 34 all applicants who meet the statutory qualifications.

6 35 Nominees shall be chosen solely on the basis of the
7 1 qualifications of the applicants, and political affiliation
7 2 shall not be considered. As used in this subsection, a
7 3 vacancy is created by the death, retirement, resignation, or
7 4 removal of a full-time associate juvenile judge, or by an
7 5 increase in the number of positions authorized.

7 6 Sec. 9. Section 633.20B, subsections 2 and 3, Code 2005,

7 7 are amended to read as follows:

7 8 2. In November of any year in which an impending vacancy
7 9 is created because a full-time associate probate judge is not
7 10 retained in office pursuant to a judicial election, the county
7 11 magistrate appointing commission shall publicize notice of the
7 12 vacancy in at least two publications in the official county
7 13 newspaper. The commission shall accept applications for
7 14 consideration for nomination as full-time associate probate
7 15 judge for a minimum of fifteen days prior to certifying
7 16 nominations. The commission shall consider the applications
7 17 and shall, by majority vote, certify to the chief judge of the
7 18 judicial district not later than December 15 of that year the
7 19 names of three applicants who are nominated by the commission
7 20 for the vacancy, unless the chief justice has ordered the
7 21 commission to delay the certification of the nominees to the
7 22 chief judge. The chief justice may order the delay of the
7 23 certification ~~for up to one hundred eighty days~~ for budgetary
7 24 reasons. If there are three or fewer applicants, the
7 25 commission shall certify all applicants who meet the statutory
7 26 qualifications. Nominees shall be chosen solely on the basis
7 27 of the qualifications of the applicants, and political
7 28 affiliation shall not be considered.

7 29 3. Within thirty days after a county magistrate appointing
7 30 commission receives notification of an actual or impending
7 31 vacancy in the office of full-time associate probate judge,
7 32 other than a vacancy referred to in subsection 2, the
7 33 commission shall certify to the chief judge of the judicial
7 34 district the names of three applicants who are nominated by
7 35 the commission for the vacancy, unless the chief justice has
8 1 ordered the commission to delay the certification of the
8 2 nominees to the chief judge. The chief justice may order the
8 3 delay of the certification ~~for up to one hundred eighty days~~
8 4 for budgetary reasons. The commission shall publicize notice
8 5 of the vacancy in at least two publications in the official
8 6 county newspaper. The commission shall accept applications
8 7 for consideration for nomination as full-time associate
8 8 probate judge for a minimum of fifteen days prior to
8 9 certifying nominations. The commission shall consider the
8 10 applications and shall, by majority vote, certify to the chief
8 11 judge of the judicial district the names of three applicants
8 12 who are nominated by the commission for the vacancy. If there
8 13 are three or fewer applicants, the commission shall certify
8 14 all applicants who meet the statutory qualifications.
8 15 Nominees shall be chosen solely on the basis of the
8 16 qualifications of the applicants, and political affiliation
8 17 shall not be considered. As used in this subsection, a
8 18 vacancy is created by the death, retirement, resignation, or
8 19 removal of a full-time associate probate judge, or by an
8 20 increase in the number of positions authorized.

8 21 Sec. 10. DELAYS IN FILLING SUPREME COURT OR COURT OF
8 22 APPEALS VACANCY. When a vacancy occurs or will occur as
8 23 provided for in section 46.12, subsection 1, the chief justice
8 24 may order the state commissioner of elections to delay sending
8 25 the notification. The chief justice may order the delay for
8 26 up to one hundred eighty days for budgetary reasons. This
8 27 section is repealed on July 1, 2006.

8 28 Sec. 11. 2003 Iowa Acts, chapter 151, section 64, is
8 29 repealed.

8 30 EXPLANATION

8 31 This bill relates to practices and procedures of the
8 32 judicial branch.

8 33 The bill provides the chief justice may delay the
8 34 appointment of a judge or magistrate for budgetary reasons.
8 35 Current law provides only through July 1, 2006, that the chief
9 1 justice may delay the appointment of a judge or magistrate for
9 2 up to 180 days for budgetary reasons.

9 3 The bill does not change current law regarding the chief
9 4 justice delaying the appointment of a supreme court justice or
9 5 court of appeals judge for up to 180 days for budgetary
9 6 reasons. The repeal of this provision remains effective July
9 7 1, 2006; thus after July 1, 2006, the chief justice will no
9 8 longer be able to delay the appointment of a supreme court
9 9 justice or court of appeals judge for budgetary reasons.

9 10 Under the bill, the chief judge of a judicial district
9 11 shall, after consultation with the judges of the judicial
9 12 election district, appoint to or remove from office the clerk
9 13 of the district court. Current law provides that the clerk of
9 14 the district court is appointed or removed from office by a
9 15 majority vote of the district judges within the judicial
9 16 election district.

9 17 The bill also provides the chief judge of a judicial

9 18 district shall, after consultation with the judges of the
9 19 judicial district, appoint to or remove from office the chief
9 20 juvenile court officer. Current law provides the juvenile
9 21 court officer shall be appointed to or removed from office by
9 22 a majority vote of the district judges of the judicial
9 23 district.

9 24 The bill increases the number of district associate judges
9 25 eligible to be appointed in a county based upon the population
9 26 of that county.

9 27 The bill strikes the requirement that the supreme court has
9 28 30 days to act upon an application for further review from a
9 29 court of appeals decision. Current law requires the supreme
9 30 court to act upon an application for further review of a court
9 31 of appeals decision within 30 days after the application is
9 32 filed or the decision by the court of appeals is conclusive.

9 33 LSB 1240DP 81

9 34 jm:rj/pj/5.1